

## Fishery Conservation and Management

§ 648.161

SMZ will be effected by a regulatory amendment pursuant to the following procedure:

(a) A SMZ monitoring team comprised of members of staff from the Mid-Atlantic FMC, NMFS Northeast Region, and NMFS Northeast Fisheries Science Center will evaluate the request in the form of a written report considering the following criteria:

- (1) Fairness and equity.
- (2) Promotion of conservation.
- (3) Avoidance of excessive shares.

(4) Consistency with the objectives of Amendment 9 to the Fishery Management Plan for the Summer Flounder, Scup and Black Sea Bass fisheries, the Magnuson-Stevens Act, and other applicable law.

(5) The natural bottom in and surrounding potential SMZs.

(6) Impacts on historical uses.

(b) The Council Chairman may schedule meetings of Industry Advisors and/or the Scientific and Statistical Committee to review the report and associated documents and to advise the Council. The Council Chairman may also schedule public hearings.

(c) The Council, following review of the SMZ monitoring teams's report, supporting data, public comments, and other relevant information, may recommend to the Regional Administrator that a SMZ be approved. Such a recommendation will be accompanied by all relevant background information.

(d) The Regional Administrator will review the Council's recommendation. If the Regional Administrator concurs in the recommendation, he or she will publish a proposed rule in the FEDERAL REGISTER in accordance with the recommendations. If the Regional Administrator rejects the Council's recommendation, he or she shall advise the Council in writing of the basis for the rejection.

(e) The proposed rule shall afford a reasonable period for public comment. Following a review of public comments and any information or data not previously available, the Regional Administrator will publish a final rule if he or she determines that the establishment of the SMZ is supported by the substantial weight of evidence in the administrative record and consistent

with the Magnuson-Stevens Act and other applicable law.

## Subpart J—Management Measures for the Atlantic Bluefish Fishery

SOURCE: 62 FR 13300, Mar. 20, 1997, unless otherwise noted.

### § 648.160 Fishing year.

The fishing year is from January 1 through December 31.

### § 648.161 Possession limit.

(a) *Possession limit.* (1) No person shall possess more than ten bluefish unless he/she has a permit meeting the requirements of § 648.4(a)(8).

(2) Bluefish caught while in possession of a permit meeting the requirements of § 648.4(a)(8) must be kept separate from the pooled catch and in the possession of the permit holder at all times.

(3) If Atlantic bluefish are filleted into two or more sections, such fillets shall be deemed to be whole Atlantic bluefish using a ratio of 1:2 (two fillets to one whole fish). If Atlantic bluefish are filleted into single (butterfly) fillets, such fillets shall be deemed to be whole Atlantic bluefish.

(4) Atlantic bluefish harvested from party and charter boats or other vessels carrying more than one person may be commingled. Compliance with the daily possession limit will be determined by dividing the number of Atlantic bluefish on board by the number of persons aboard, provided, however, that if a person or persons aboard are fishing under a permit meeting the requirements of § 648.4(a)(8), his/her catch shall not be counted for determining compliance with the possession limit, if it is maintained in the possession of such person(s). If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and/or operator.

(b) *Adjustment of the possession limit.* After notice and 15 days opportunity for public comment, NMFS may adjust the possession limit within a range of 0